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TAGS: [ETRD](#) [SENV](#) [NL](#) [EUN](#)

SUBJECT: REACH: Latest Dutch Views

REF: State 57073

1. (U) Summary: The Dutch are pushing for EU REACH proposals so that registration and evaluation requirements are targeted to substances posing the most significant potential risks. They are concerned with the potential impact of existing proposals on SME's and are interested in further information regarding USG views on the consistency between REACH proposals and TBT, TRIPS, and OECD provisions. The Dutch foresee consideration of REACH to be a long-term process likely not completed until at least 2006. End Summary.

General Approach

2. (U) The Dutch generally agree with the approach taken by the Commission in drafting REACH believing that the consolidated legislation will largely be better for business and environmental concerns than the current hodgepodge of multiple EU directives and member state legislation. They are strong advocates of minimizing unnecessary burdens on business by targeting registration and evaluation requirements to substances that are likely to pose the most significant risks and subjecting other substances and articles to a more general duty of care.

Timing and Process

3. (SBU) Dutch officials foresee REACH undergoing a long period of consideration and debate with a political agreement on major issues possible during the UK presidency of the EU (latter half of 2005) and with detailed agreement to follow. Since the end of the public comment period, the council's ad hoc REACH working group has been meeting every three weeks for a day and a half. The Dutch send capital-based representatives to these meetings but have appointed their Brussels mission to head their delegation in order to avoid a bureaucratic fight between the Economics and Environment ministries as to which ministry is in charge.

4. (SBU) The European Commission has used the meetings so far held to go through the proposal's text article by article to explain their reasoning and rationale behind the chosen options. Very few member states have used this discussion to present written positions or alternative options. Only the Netherlands, United Kingdom, and France have submitted position papers (we have e-mailed the Dutch paper to Commerce (Naas), USTR (Sanford/Molnar), and USEU (Kvien)) and none of them have so far been discussed. The Dutch believe that the Commission is reluctant to change the current proposal because they believe the one currently presented in well balanced: changing one aspect could cause the entire structure to collapse.

5. (SBU) With the entire text now completed, the Irish presidency plans a thematic discussion of major issues beginning with registration. During their upcoming presidency, the Dutch plan to continue discussing the issues thematically and hope to reach political agreement on any issues where there appears to be consensus. More contentious issues would be passed on the presidency successors.

Impact Assessments

6. (SBU) According to the Dutch, many EU Member States have initiated impact assessments or case studies to obtain more detailed understanding of the likely impact of REACH on their economies and/or business sectors. Most of the national studies are expected to be finalized this year. This month the European Commission has also initiated case studies for exploring certain aspects for which the business impact study underlining the REACH proposal did not provide a clear picture. These topics are the potential impacts of REACH on (a) business throughout the supply chain (availability of substances), (b) innovation, and (c) accession countries becoming full members of the EU at the first of May. The results of the Commission studies are not

expected before the end of this year. All EU Member States support, in general, the concept of the REACH proposal, but most of the Member States will await for the results of these studies before taking a clear position on the details.

Registration

17. (SBU) The Dutch believe this is a key issue and one of the first scheduled to be discussed thoroughly by the ad hoc committee. Dutch officials believe that large chemical companies will have little problem complying with proposed registration requirements because these companies work with relatively few chemicals and have already compiled most of the data they would need for registration. The Netherlands is more concerned with the possible burden on small companies that may be forced - should REACH be implemented in its current form - to actually withdraw some chemicals from production. The Dutch are studying proposals from the UK to provide one registration per substance with chemical consortia organizing to submit single substance applications: at face value single substance registration would be less burdensome but the cost to a company of forming and joining consortia has not been assessed. The Dutch also note that registration requirements will impact more significantly on substances in long-term existence than "new" one: a good percentage of "new" substances have already had to undergo testing.

WTO and OECD Issues

18. (U) The Netherlands wants to hold REACH to strict WTO conformity and is anxious to know if we have concerns as to its WTO consistency. They will carefully review U.S. comments made as part of the TBT submission. They have some concerns internally that registration requirements might infringe on firms' intellectual property (if firms must make detailed information publicly available in the registration process, the substances are vulnerable to copying by competitors) and ask whether the U.S. has TRIPS concerns as well. Our Dutch contacts are also unfamiliar with the particulars of the OECD High Production Volume Chemicals program and asked for more information on how that program and REACH might come into conflict.

Sobel